

立法會
Legislative Council

LC Paper No. CB(1)478/15-16
(These minutes have been seen
by the Administration)

Ref : CB1/BC/3/15

**Bills Committee on
Mandatory Provident Fund Schemes (Amendment) Bill 2015**

**Minutes of the first meeting
on Tuesday, 15 December 2015, at 10:45 am
in Conference Room 1 of the Legislative Council Complex**

- Members present** :
- Hon TAM Yiu-chung, GBS, JP (Chairman)
 - Hon LEE Cheuk-yan
 - Hon Abraham SHEK Lai-him, GBS, JP
 - Hon Andrew LEUNG Kwan-yuen, GBS, JP
 - Hon Cyd HO Sau-lan, JP
 - Hon CHAN Kin-por, BBS, JP
 - Hon IP Kwok-him, GBS, JP
 - Hon Alan LEONG Kah-kit, SC
 - Hon LEUNG Kwok-hung
 - Hon Albert CHAN Wai-yip
 - Hon WONG Yuk-man
 - Hon NG Leung-sing, SBS, JP
 - Hon Kenneth LEUNG
 - Hon KWOK Wai-keung
 - Hon Christopher CHEUNG Wah-fung, SBS, JP
 - Hon SIN Chung-kai, SBS, JP
 - Hon POON Siu-ping, BBS, MH
 - Hon TANG Ka-piu, JP
 - Hon CHUNG Kwok-pan
- Members absent** :
- Hon WONG Ting-kwong, SBS, JP
 - Hon CHAN Han-pan, JP

Public officers attending : Agenda Item II

Mr Eddie CHEUNG
Deputy Secretary for Financial Services and the Treasury (Financial Services)

Ms Janet HO
Acting Principal Assistant Secretary for Financial Services and the Treasury (Financial Services)

Mr Allen LAI
Senior Government Counsel
Department of Justice

Mr Darren McSHANE
Chief Regulation & Policy Officer and Executive Director
Mandatory Provident Fund Schemes Authority

Ms Gabriella YEE
Head (Policy Development and Research)
Mandatory Provident Fund Schemes Authority

Ms Stella YIU
Head (Investment Regulation)
Mandatory Provident Fund Schemes Authority

Clerk in attendance : Ms Anita SIT
Assistant Secretary General 1

Staff in attendance : Miss Joyce CHAN
Assistant Legal Adviser 1

Miss Rita YUNG
Senior Council Secretary (1)8

Action

I. Election of Chairman

Mr TAM Yiu-chung, the member who had the highest precedence among members of the Bills Committee present at the meeting, presided at the election of chairman of the Bills Committee. Mr TAM invited

nominations for the chairmanship of the Bills Committee.

2. Mr TAM Yiu-chung was nominated by Mr IP Kwok-him and the nomination was seconded by Mr Andrew LEUNG and Mr NG Leung-sing. Mr TAM Yiu-chung accepted the nomination.

3. There being no other nomination, Mr TAM Yiu-chung was elected Chairman of the Bills Committee.

4. Members agreed that it was not necessary to elect a Deputy Chairman.

II. Meeting with the Administration

(LC Paper No. CB(3)135/15-16 -- The Bill

LC Paper No. CB(1)287/15-16(01) -- Mark-up copy of the Bill prepared by the Legal Service Division (Restricted to members only)

File Ref : MPF/2/1/39C(2015) Pt.2 -- Legislative Council Brief issued by Financial Services and the Treasury Bureau

LC Paper No. LS12/15-16 -- Legal Service Division Report

LC Paper No. CB(1)287/15-16(02) -- Paper on Mandatory Provident Fund Schemes (Amendment) Bill 2015 prepared by the Legislative Council Secretariat (background brief)

LC Paper No. CB(1)292/15-16 -- Administration's paper on Mandatory Provident Fund Schemes (Amendment) Bill 2015 (Powerpoint presentation material))
(tabled at the meeting and subsequently issued on 15 December 2015)

5. The Bills Committee deliberated (Index of proceedings attached at **Annex**).

Follow-up action to be taken by the Administration

6. The Administration was requested to provide the following information:

- (a) the estimated number and percentage of existing default scheme members whose accrued benefits would be transferred to and invested according to the Default Investment Strategy ("DIS") after commencement of the Bill, and the amount of accrued benefits involved;
- (b) regarding other jurisdictions adopting similar standardized default investment arrangements in their retirement schemes, the fee levels, investment returns, number of schemes offered and the net asset value of such default investments;
- (c) the fee levels and investment returns of the past 10 years of the existing Mandatory Provident Fund ("MPF") constituent funds that met the globally diversified investment principle of the DIS;
- (d) the net asset value of each of the six guaranteed funds which were currently determined by the trustees as default investment arrangements ("DIAs"), and the conditions for guaranteed return of these funds;
- (e) regarding the proposed section 34DC(3), a list of the fees or charges permitted to be charged to the proposed Core Accumulation Fund and Age 65 Plus Fund of the DIS in addition to the management fees, and the approximate amount of such fees or charges currently charged by the trustees to the existing constituent funds; and
- (f) a comparison of the Mandatory Provident Fund Schemes Authority's power of on-going supervision over the existing constituent funds and the proposed Core Accumulation Fund and Age 65 Plus Fund of the DIS.

(Post-meeting note: The written response provided by the Administration was issued to members vide LC Paper No. CB(1)396/15-16(02) on 8 January 2016.)

Invitation of views

7. The Bills Committee agreed to invite views on the Bill and meet with deputations at the next meeting scheduled for 11 January 2016 at 9:00 am. In line with the usual practice, invitation letters would be issued to relevant organizations and the 18 District Councils. A notice would be placed on the website of the Legislative Council to invite views from interested parties.

III. Any other business

8. There being no other business, the meeting ended at 12:42 pm.

Council Business Division 1
Legislative Council Secretariat
22 January 2016

**Proceedings of the first meeting of
the Bills Committee on
Mandatory Provident Fund Schemes (Amendment) Bill 2015
on Tuesday, 15 December 2015, at 10:45 am
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda Item I – Election of Chairman			
000118 – 000322	Mr TAM Yiu-chung Mr IP Kwok-him Mr Andrew LEUNG Mr NG Leung-sing	Mr TAM Yiu-chung was elected Chairman of the Bills Committee. Members agreed that it was not necessary to elect a Deputy Chairman.	
Agenda Item II – Meeting with the Administration			
000323 – 002015	Chairman Administration Chief Regulation & Policy Officer and Executive Director, Mandatory Provident Fund Schemes Authority ("MPFA")	Powerpoint presentation by the Administration and MPFA on the Mandatory Provident Fund Schemes (Amendment) Bill 2015 ("the Bill") (LC Paper No. CB(1)292/15-16).	
002016 – 003019	Chairman Mr TANG Ka-piu Administration MPFA	Mr TANG Ka-piu welcomed the introduction of a fee-controlled Default Investment Strategy ("DIS"), and suggested that the Bills Committee meet with deputations to receive public views on the Bill. Mr TANG Ka-piu's enquiries on – (a) the components of fees to be charged to DIS members under the fee cap of 0.75% of the net asset value of a constituent fund, as well as the mechanism for adjusting the fee cap downward in future; (b) the investment returns of similar standardized default investment arrangements in the retirement schemes adopted by other jurisdictions; (c) MPFA's power of on-going supervision over the proposed Core Accumulation Fund and Age 65 Plus Fund of the DIS; and	The Administration to follow up as per paragraph 6(b) of the minutes.

Time marker	Speaker	Subject(s)	Action required
		<p>(d) how the Administration could prevent the trustees from withholding information and not informing their scheme members about the DIS, or directing scheme members away from choosing the DIS.</p> <p>The Administration and MPFA responded that –</p> <p>(a) the fee cap of 0.75% referred to the total management fees (not including out-of-pocket expenses) charged to the Core Accumulation Fund, the Age 65 Plus Fund or a DIS member. For other fees or charges not subject to the fee cap of 0.75%, there were existing monitoring mechanisms to ensure that the amount of such fees or charges should be reasonable;</p> <p>(b) the constituent funds of the DIS would have to comply with the additional specific investment and fee-related reporting requirements to facilitate MPFA's assessment of the trustee's compliance with the DIS requirements (e.g. investment principles and fee cap). MPFA would be empowered to request a trustee to provide an auditor's investigation report on its compliance with the DIS if MPFA reasonably believed that the trustee had failed to comply with DIS-related requirements; and</p> <p>(c) the Administration and MPFA would organize briefings for the media and publicize the introduction of the DIS. Approved trustees would be required to notify all existing scheme members about the introduction of a new constituent fund (if any) under the DIS. MPFA had also issued guidelines on the minimum standards of conduct expected of regulated persons who engaged in conducting sales and marketing activities and giving advice in relation to registered schemes.</p>	
003020 – 003629	Chairman Mr SIN Chung-kai Administration MPFA	<p>Mr SIN Chung-kai's enquiries on –</p> <p>(a) whether the existing constituent funds under the schemes administered by the trustees met the proposed DIS constituent funds requirements; and</p>	

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		<p>(b) the estimated number of scheme members whose accrued benefits would be transferred to and invested according to the DIS.</p> <p>The Administration and MPFA responded that –</p> <p>(a) none of the existing constituent funds under the DIAs of the trustees met the proposed investment requirements of the DIS (i.e. globally diversified and de-risking investment principles) in the Bill. After the enactment of the Bill, the trustees had to submit their proposals of DIS for each scheme to MPFA for approval; and</p> <p>(b) a survey conducted by MPFA in 2013 revealed that about 24% of scheme members claimed that they had never made any choice of constituent funds. At present, trustees were not required by the law or under any administrative guidelines to submit statistics on the profile of default scheme members to MPFA regularly and it would be difficult to estimate the number of default scheme members who had their accrued benefits invested according to the DIS.</p>	
003630 – 004616	Chairman Mr Albert CHAN Administration	<p>Mr Albert CHAN considered that it was not desirable for each trustee to provide, individually, a DIS in each scheme. Instead, the Administration should introduce a central DIS operated by a single public trustee (such as the Hong Kong Monetary Authority) or jointly by the existing trustees for use by all schemes in the System, so as to achieve economies of scale and larger scope of fee reduction.</p> <p>The Administration responded that –</p> <p>(a) operating a DIS through a public trustee would require the establishment of a new operating system and enactment of relevant legislation and thus would involve a long period of preparation and development; and</p> <p>(b) in order to introduce a fee-controlled DIS in a timely manner and given that the existing Mandatory Provident Fund ("MPF") schemes were privately-managed schemes operated by</p>	

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		<p>different trustees, it was considered appropriate for the market to develop and operate the highly-standardized DIS that would suit the needs of members of individual schemes.</p>	
004617 – 005057	<p>Chairman Mr IP Kwok-him Administration MPFA</p>	<p>Mr IP Kwok-him declared that he was a non-executive director of MPFA.</p> <p>Mr IP Kwok-him sought elaboration on the justification for not operating a central DIS through a public trustee, and enquired whether the Administration would consider adopting the arrangement of a public trustee in future.</p> <p>The Administration and MPFA responded that –</p> <p>(a) at present, a trustee would invest the accrued benefits of a default scheme member (i.e. a member who did not make a choice of investment funds) in a single or a number of default constituent funds as determined by the trustee under the governing rules of the scheme. There was no regulation on the design of constituent funds under the DIAs, resulting in a mosaic of constituent funds and strategies as the default arrangements in different schemes; and</p> <p>(b) the proposed DIS was a timely solution to address the problems of high fees and difficulty in making investments choices in the privately-managed MPF System by regulating the DIAs. The Government did not have any plans to change the privately-managed model of the MPF System.</p>	
005058 – 005531	<p>Chairman Mr CHAN Kin-por MPFA</p>	<p>Mr CHAN Kin-por sought elaboration on the rationale for the globally diversified investment principle. He called on the Administration to take heed of the industry's views and concerns in relation to the technical issues of the implementation of the DIS.</p> <p>MPFA responded that –</p> <p>(a) reducing outcome uncertainty was considered to be a key objective of a well-designed default investment strategy that was principally designed to protect the interests of those</p>	

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		<p>members who did not, or did not want to, make an investment decision;</p> <p>(b) as the DIS would be investing for retirement purpose entailing a long-term investment horizon, broad diversification of investments between assets and geography was important as a risk management tool. Diversification would ensure that investments were not overly concentrated in any one asset or geographic region, and limiting portfolio risk and exposure to volatility in any specific market; and</p> <p>(c) while the DIS mandated the respective percentages of higher risk and lower risk investments within the two constituent funds, flexibility was provided to the industry for determining the asset or geographical allocation of investments of the constituent funds for individual schemes.</p>	
005532 – 010218	Chairman Administration	<p>The Chairman welcomed the proposed fee-controlled DIS.</p> <p>The Chairman's view that there was general criticism in the society about the high fees and unsatisfactory investment returns of the existing MPF schemes.</p> <p>The Chairman's enquiry on the reasons for not introducing a central DIS, with the Administration taking up the role of a public trustee and providing guaranteed returns to scheme members (similar to the guaranteed returns offered by iBonds issued by the Administration).</p> <p>The Administration responded that –</p> <p>(a) the provision of guaranteed returns to scheme members by the Government would involve huge financial commitment of the Government, and the costs of which would ultimately be borne by taxpayers. It was considered appropriate that similar to other constituent funds under the MPF schemes, the DIS should be operated by the market; and</p>	

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		<p>(b) the objectives of iBond and that of the DIS were very different. The primary objective of iBond was to promote the development of the local bond market and the issue of iBond was not necessarily a long-term initiative, whereas MPF was a long-term investment to assist the working population to save for their retirement.</p>	
010219 – 011226	Chairman Mr TANG Ka-piu Administration MPFA	<p>Mr TANG Ka-piu's comment that greater economies of scale could be achieved by a central DIS operated by a public trustee or jointly by the existing trustees, as opposed to providing a DIS in each MPF scheme. His enquiries on –</p> <p>(a) the number of existing default scheme members (i.e. a member who did not make a choice of investment funds);</p> <p>(b) exemption from transferring to the DIS in relation to the accrued benefits of a default member currently invested in guaranteed funds; and</p> <p>(c) the prospect of the development of the DIS.</p> <p>The Administration and MPFA responded that –</p> <p>(a) upon the commencement of the new statutory DIS, a trustee would be required to notify in writing the existing default scheme members who had not given investment instructions for all their accrued benefits about the transitional arrangements to the DIS. MPFA had requested the trustees to identify such members in preparation for the implementation of the DIS and emphasized that the list of such members was dynamic;</p> <p>(b) to protect the interest of default scheme members, the accrued benefits of a default scheme member currently invested in guaranteed funds would not be invested according to the DIS if it would cost the member the promised return in the circumstance that the guaranteed value of his investment fund was higher than its market value; and</p>	

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		<p>(c) according to the experience in overseas countries, the participation rate in the default investment arrangements (including default scheme members as well as members who had given instructions to select the default arrangements) were high. The Administration expected that the proposed DIS would be well received by scheme members over the longer-term.</p>	
<p>011227 – 011808</p>	<p>Chairman Mr LEUNG Kwok-hung Administration</p>	<p>Mr LEUNG Kwok-hung's view that –</p> <p>(a) the Administration had the responsibility to provide retirement protection to Hong Kong people. It should introduce a central DIS and take up the role of a public trustee to operate the DIS, providing guaranteed returns to scheme members; and</p> <p>(b) the arrangement of offsetting severance payments and long service payments against MPF accrued benefits should be abolished.</p> <p>The Administration responded that –</p> <p>(a) there was international research which highlighted the importance of having well-designed default funds for scheme members who did not, or did not want to, make a choice of funds. Many countries had adopted standardized default investment arrangements in their retirement schemes; and</p> <p>(b) the issue of offsetting severance payments and long service payments against MPF accrued benefits was outside the scope of the Bill.</p>	
<p>011809 – 012645</p>	<p>Chairman Mr LEE Cheuk-yan Administration MPFA</p>	<p>Mr LEE Cheuk-yan's view that –</p> <p>(a) the Administration should introduce a central DIS and take up the role of a public trustee to operate the DIS, and introduce MPF investment products which were linked to the performance of the Exchange Fund;</p> <p>(b) all MPF schemes should be subject to the fee cap of 0.75%; and</p>	

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		<p>(c) the arrangement of offsetting severance payments and long service payments against MPF accrued benefits should be abolished.</p> <p>Mr LEE Cheuk-yan's enquiry on the past investment returns of the existing constituent funds that were similar to the proposed Core Accumulation Fund and Age 65 Plus Fund of the DIS.</p> <p>The Administration and MPFA responded that –</p> <p>(a) there was considerable difference in the costs and fees between actively- and passively-managed MPF constituent funds. Therefore it was not appropriate to mandate a single fee cap for all MPF constituent funds;</p> <p>(b) it was the first time for the Administration and MPFA to introduce a fee control element in the MPF System. The Administration and MPFA would keep the DIS operation under review before considering the feasibility of introducing an even more stringent fee cap;</p> <p>(c) the 3-year average annual investment return (after netting management fees) of mixed asset constituent funds with 20% of the net asset value of the fund in higher risk investments (i.e. similar to the proposed Age 65 Plus Fund) was 3.5%, and</p> <p>(d) the 10-year average annual investment return (after netting management fees) of mixed asset constituent funds investing more in higher risk investments (i.e. similar to the proposed Core Accumulation Fund) was 4.6%.</p>	
012646 – 012913	Chairman Mr POON Siu-ping Administration	<p>Mr POON Siu-ping declared that he was a non-executive director of MPFA.</p> <p>Mr POON Siu-ping supported in principle the proposed DIS which aimed to address the problems of high fees and difficulty in making investment choices in the MPF System. He sought elaboration on the financial penalties for the trustees' failure to comply with DIS-related requirements.</p> <p>The Administration responded that if a trustee had failed to comply with DIS-related requirements</p>	

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		such as failure to transfer default scheme members' accrued benefits to the DIS constituent funds for investment according to the DIS, the trustee could be subject to the amount of financial penalty proposed to be set out in Schedule 4 to the Mandatory Provident Fund Schemes (General) Regulation (Cap. 485A) for each of the cases of individual scheme members.	
012914 – 013522	Chairman Mr WONG Yuk-man	<p>Mr WONG Yuk-man criticized the high fees and unsatisfactory investment returns of the MPF schemes, and opposed to the MPF System and the proposed DIS.</p> <p>Mr WONG Yuk-man's view that –</p> <p>(a) all MPF schemes should be subject to fee control; and</p> <p>(b) the fee cap of 0.75% was still too high, in particular for the proposed Age 65 Plus Fund.</p>	
013523 – 014135	Chairman Mr CHUNG Kwok-pan Administration MPFA	<p>Mr CHUNG Kwok-pan's enquiries on –</p> <p>(a) referring to the high rates of investments in the default investment arrangements in many overseas countries such as the United Kingdom, the estimated number of scheme members who would select the DIS; and</p> <p>(b) whether the introduction of the DIS would exert pressure on the market to reduce fees of other constituent funds generally.</p> <p>The Administration and MPFA responded that –</p> <p>(a) it would be difficult to estimate the number of scheme members who would select the DIS at this stage;</p> <p>(b) the high rates of investment in the default investment arrangements in overseas countries generally referred to new members of retirement schemes investing into the default arrangements, but not existing members switching to the default arrangements; and</p> <p>(c) from the system-wide perspective, it was expected that the Core Accumulation Fund and</p>	

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		Age 65 Plus Fund of the DIS would become a benchmark and driving force for competition and fee reduction for other constituent funds in the MPF System.	
014136 – 014455	Chairman Mr SIN Chung-kai Administration	Mr SIN Chung-kai requested the Administration to provide information on the estimated number and percentage of existing default scheme members whose accrued benefits would be transferred to and invested according to the DIS after the commencement of the new statutory DIS, and the estimated amount of accrued benefits involved.	The Administration to follow up as per paragraph 6(a) of the minutes.
014456 – 015033	Chairman Mr LEE Cheuk-yan MPFA	<p>Mr LEE Cheuk-yan's enquiries on –</p> <p>(a) the arrangements for informing existing scheme members who had already made investment choices in relation to the introduction of the Core Accumulation Fund and the Age 65 Plus Fund; and</p> <p>(b) the types of fees chargeable to the Core Accumulation Fund and the Age 65 Plus Fund under the DIS.</p> <p>MPFA responded that –</p> <p>(a) MPFA would conduct promotion and educational activities for the public about the DIS. It also planned to issue a standardized information sheet on the DIS to be distributed by the trustees to all scheme members about 3 months before the commencement of the DIS; and</p> <p>(b) the fee cap of 0.75% included all asset based fees paid for the services provided by the trustee; the administrator, investment manager, custodian and their delegates; and the sponsor and promoter of a scheme, as well as similar types of fees chargeable to underlying investment funds.</p>	
015034 – 015737	Chairman Mr TANG Ka-piu Administration	<p>Mr TANG Ka-piu requested the Administration to provide a written response on –</p> <p>(a) the fee levels, investment returns, number of schemes offered and the net asset value of similar standardized default investment</p>	The Administration to follow up as per paragraphs 6(b) to 6(f) of the minutes.

Time marker	Speaker	Subject(s)	Action required
		<p>arrangements adopted by retirement schemes operated in other jurisdictions;</p> <p>(b) the fee levels and investment returns of the existing constituent funds that met the globally diversified investment principle of the DIS in the past 10 years;</p> <p>(c) the net asset value of each of the six guaranteed funds which were currently determined by the trustees as DIAs, and the conditions on fund switching, etc. for guaranteed return of these funds;</p> <p>(d) regarding the proposed section 34DC(3), a list of the fees or charges permitted to be charged to the proposed Core Accumulated Fund and Age 65 Plus Fund of the DIS in addition to the management fees, and the approximate amount of such fees or charges currently charged by the trustees to the existing constituent funds; and</p> <p>(e) a comparison of MPFA's power of on-going supervision over the existing constituent funds and the proposed Core Accumulation Fund and Age 65 Plus Fund of the DIS.</p>	
015738 – 015825	Chairman	Date of the second meeting and invitation of views from deputations.	